



## **Section 4: Community Justice – Addressing Community Problems Through Justice Initiatives**



### **“COMMUNITY JUSTICE”: AN UMBRELLA FOR A WEALTH OF PROGRAMS**

What is community justice? It can take many forms, but at its core, community justice is about partnership and problem solving. It is about creating new relationships, both within the justice system and with outside stakeholders like residents, merchants, religious organizations, and schools. In the criminal justice system, it is about testing new and aggressive approaches to public safety rather than merely responding to crime after it has occurred.<sup>1</sup> In the civil justice system, it is about ensuring access to justice and being responsive to court user needs and concerns.

This section of the handbook is intended to offer an introduction to some of the current ideas implicit in community justice initiatives and available community justice project resources.

For purposes of this handbook, community justice programs are presented in two sections: Community Criminal Justice and Community Civil Justice. The court programs involved in community criminal justice include community courts, restorative justice, and therapeutic justice. For each of these, a description and examples of successful programs are provided. Although the court is not responsible for starting community policing, community prosecution, community defense, community mobilization, or comprehensive community efforts, it can play an important leadership role in bringing together and partnering with other agencies and the community to address community justice problems. Thus descriptions of these programs are also included.

The community civil justice arena has not been as thoroughly developed as the criminal justice arena. In this section, we provide a few examples of current community civil justice programs, including pro per help centers, mediation services, and some proposed programs of the Red Hook Community Justice Center.

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<sup>1</sup>*Community Courts: A Manual of Principles*, Bureau of Justice Assistance, 1994, p. 1.

## COMMUNITY CRIMINAL JUSTICE

A wide range of community criminal justice initiatives was started by the U.S. Department of Justice, Bureau of Justice Assistance (BJA), in the early 1990s under the leadership of Attorney General Janet Reno. These programs have expanded and strengthened in the years since their inception. The meanings of the terms listed above and the time frame within which each began demonstrates the evolution of this effort.

### Community Courts<sup>2</sup>

Community courts establish court processes that (1) impose immediate, meaningful sanctions on offenders; (2) are visible to the community; and (3) have the capacity to address social problems that underlie minor criminality.

#### The Midtown Community Court in Manhattan

##### Concept

The Midtown Community Court, supported by the Center for Court Innovation and the Bureau of Justice Assistance, is the clear leader in this evolutionary stage of community courts. In concept, New York City's Midtown Community Court, which opened for business in October of 1993, differs dramatically from the way that lower courts have operated in the city for many years. At the same time, it reflects a return to an old idea.

In 1962, New York City closed down a network of neighborhood magistrate's courts that handled intake for the city's court system, arraigning defendants and disposing of low-level offenses without forwarding them to any higher tribunal. Under the new system, intake and arraignment duties were shifted to lower court judges in centralized courthouses serving each of the city's five boroughs. The change was intended to increase efficiency, and to an extent it succeeded. The cost was remoteness. Courts were removed from the communities they were intended to serve.

##### Planning

As caseloads increased in the centralized courts, felony cases naturally began to claim more and more attention. Fewer resources were devoted to "quality-of-life" misdemeanors like shoplifting, prostitution, and subway fare cheating. Judges were under tremendous pressure to dispose of such cases quickly. All too often, defendants arrested for low-level offenses were sent on their way after being sentenced to "time served" in jail while awaiting their court appearance or perhaps to a fine that might or might not be paid or community service that might or might not be performed.

Mindful of these problems, the planners of the Midtown Community Court project sought to recreate a neighborhood-based intake and arraignment court

<sup>2</sup> BJA and the Center for Court Innovation have developed *Community Courts: A Manual of Principles*. This document, which reviews issues to consider when developing a community court, is available at BJA's Web site: <http://www.ojp.usdoj.gov/BJA>.



## The Midtown Community Court in Manhattan

	<p>along the lines of the old magistrate's courts, but with a number of 1990s updates. The hope was that such a court could focus on the quality-of-life crimes that erode a community's morale. The plan for the court coincided with the New York City Police Department's new emphasis on community policing, as well as with a growing interest in community-oriented justice on the part of prosecutors, probation offices, and corrections agencies nationwide.</p>
Location	<p>With the help of the local community board — the smallest unit of local government in New York — planners found a location for the court near Times Square on the West Side of Manhattan, an area teeming with quality-of-life crimes. Renovated for use as the Midtown Community Court, the 1896 building, which had once been a magistrate's court, featured clean, bright holding rooms secured with glass panels rather than bars, a pointed contrast to squalid downtown holding pens. The new courthouse also included a full floor of office space for social workers to assist offenders referred by the judge in the courtroom a few floors below. And the whole place was wired for an innovative computer system that would allow the judge, attorneys, and social service workers to keep in touch with each other and access a defendant's full record at the click of a mouse.</p>
Strategy	<p>The location, architecture, and technology were part of a larger strategy. The court sought to honor the idea of community by making justice restorative. Offenders would be sentenced to pay back the community through work projects in the neighborhood, caring for street trees, getting rid of graffiti, cleaning subway stations, and sorting recycled cans and bottles. At the same time, wherever possible, the court would use its legal leverage to link offenders with social services, such as drug treatment, health care, education, to help them address their problems. In these ways, Midtown sought to stem the chronic offenses that demoralize law-abiding residents.</p>
Results	<p>By the summer of 1996, the court was arraigning an average of 65 cases per day for a projected annual total of over 16,000 cases. This volume made Midtown one of the busiest arraignment courts in the city. In addition, sentenced offenders were performing the equivalent of \$175,000 worth of community service work per year. Midtown's emphasis on immediacy — offenders must report to the court's community service or social service center immediately after sentencing — has improved compliance rates. Nearly 75 percent complete their community service sentences as mandated, the highest rate in the city.</p> <p>The court's success has stirred the interest of prosecutors, judges, court administrators, and neighborhood groups elsewhere who hope to make intake and arraignment courts more community oriented and more effective in dealing with quality-of-life offenses. Midtown Community Court planners pursued six goals: restoring the community, bridging the gap between communities and courts, knitting together a fractured criminal justice system, helping offenders deal with problems that lead to crime, providing the courts with better information, and building a physical courthouse that reflects these ambitions.</p>



## The Midtown Community Court in Manhattan

Visit the Center for Court Innovation's web page at [www.communitycourts.org](http://www.communitycourts.org) for more information on the Midtown Community Court and its successor, Red Hook Community Justice Center.

## Restorative Justice

“Restorative justice focuses on restoring the health of the community, repairing the harm done, meeting victims’ needs, and emphasizing that the offender can — and must — contribute to those repairs. Restorative justice condemns the criminal act, holds offenders accountable, involves the participants, and encourages repentant offenders to earn their way back into the good graces of society. Restorative justice considers crime an act against the individual and the community rather than against the state.”<sup>3</sup>

Restorative justice is a different way of understanding and responding to crime and victimization in our communities. It replaces adversarial relationships with communication and problem solving, and punitive sanctions for all but the most serious offenses with healing and forgiveness. The roots of restorative justice are deeply embedded in the traditional practices of many indigenous peoples throughout the world. As such, use of restorative justice programs represents a shift from the ordinary approach to dealing with criminal acts and offenses to one that is more inclusive and flexible.<sup>4</sup>

The Traditional Approach	The Restorative Approach
<ul style="list-style-type: none"><li>• Defines crime as a violation of state law.</li><li>• Focuses on establishing blame.</li><li>• Ignores the needs of the victim and community.</li><li>• Stigmatizes and alienates the offender.</li></ul>	<ul style="list-style-type: none"><li>• Defines crime as a violation of one person by another.</li><li>• Focuses on problem solving.</li><li>• Involves the victim and the community, and responds to their needs.</li><li>• Forgives the offender and reintegrates the offender within the community.</li></ul>

The philosophy behind restorative justice is “making things right” by condemning the behavior of offenders while preserving their dignity. For many offenders, it is a harsher sentence to have to face their community, victim, and family and to take responsibility for their actions, than to spend time in a correctional facility. Initiating restorative justice programs requires forging partnerships among government, the community, victims, and offenders.

<sup>3</sup> “Restorative Justice: An Interview with Visiting Fellow Thomas Quinn,” *National Institute of Justice Journal*, March 1998, p. 10.

<sup>4</sup> Jan Turner, “White Paper: Restorative Justice: A New Approach to Criminal Law,” *National Association for Court Management*, July 1998.



**Principles of restorative justice.** The principles of restorative justice are summed up in four stages: encounter, reparation, reintegration, and participation.

The Four Stages of Restorative Justice	
<b>Encounter</b>	The victim, the offender, and the community recount the events from their points of view. Once the parties have a full picture and an understanding of the crime, each can also identify the steps needed to rectify the situation. Victims participate and are allowed to tell their story to the person who has affected them. Offenders thus become accountable for their actions, and communities benefit from the restored relationship and the steps planned to rectify the situation. This stage does not necessarily require face-to-face communications. Rather, in cases of violent crimes against the person, the encounter stage can be structured so that the offender listens to the victim's story from another room or on videotape, or the victim can speak to other similar offenders.
<b>Reparation</b>	The offender makes reparation with either restitution to the victim, or service to the community as a whole, or both.
<b>Reintegration</b>	The reintegration stage promotes the re-entry of both the victim and the offender into the community as contributive, productive persons. The focus is not on the victim or the offender, but rather on nurturing society with ideals of respect, commitment, and a balance between accountability and understanding of deviant or irrational behavior.
<b>Participation</b>	Participation pervades all phases of the restorative justice process because, in order for it to be effective, the victim, the offender, and the community must fully participate and take responsibility for the outcome.

Through each stage the focus must be on the victim, the offender, the community, and the relationship between these three. At a minimum, the concept of restorative justice can offer more efficient criminal justice processing. At its best, restorative justice can reduce the amount of crime, rehabilitate offenders by making them accountable, restore victims, and revitalize civil society by empowering individuals to take control of their communities and their lives.<sup>5</sup>

#### **The benefits of restorative justice are:**

<b>Victims</b>	Restorative justice programs benefit victims by understanding their trauma and by focusing on their victimization as an opportunity for a new beginning through active involvement of the victim in achieving
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<sup>5</sup> Lori Fenton. "White Paper: Restorative Justice and the Criminal Justice System," *National Association for Court Management*, July 1998.



	restitution and justice.
<b>Offenders</b>	Restorative justice programs benefit offenders through a learning and awareness process that holds them accountable for their actions, expects them to understand the consequences of victimization, and supports their continued growth and development as contributing members of society.
<b>Community</b>	Restorative justice programs benefit the community by providing measurable and tangible results, such as lower recidivism rates (i.e., rate of relapse of criminal behavior), that renew the public's faith in the justice system.

**Victim services.** One of the primary areas of focus for restorative justice is recognizing the importance of recognizing and responding to the needs of victims of crime. These efforts take different forms:

- Victim impact statements provide an opportunity for victims to express their concerns to the prosecutors and the court.
- Victim impact panels give victims an opportunity to confront groups of offenders—not necessarily the ones who committed their crimes—and to talk about the anger and hurt caused by crime.

## Alternative Sentencing Programs

Restitution to crime victims and community service have long been sentencing alternatives used by judges in lieu of or along with imprisonment, fines, and other penalties. In the context of community justice initiatives, courts and other organizations have taken a renewed look at how community service can be an effective sentencing option and provide restoration to both crime victims and the community.

***The Balanced and Restorative Justice (BARJ) project*** is supported in several sites by the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. BARJ calls for every sanction involving juveniles to include consideration of public safety, accountability to victim and community, and the development of competency by offenders. (Contact: Gordon Bazemore, Ph.D., 954-762-5668, or Mark Umbreit, Ph.D., 612-624-4923.)

***Citizen reparative boards*** are used in Vermont to determine the nature, details, and conditions of probation for convicted offenders. Trained volunteers provide offenders with a clear understanding of the impact their crimes had on the community as well as an appropriate and relevant assignment to repair damage.

***Sentencing circles*** are an American and Canadian Indian approach that is being revived. They involve a wide array of interested parties, including those closest to the victim and offender and others likely to affect their future.



**Peer courts** give juveniles who have admitted to committing a nonfelony offense an opportunity to be “judged” by a jury of their peers. In admitting their wrongdoing and fulfilling the conditions of their sentence, the juveniles are given a “second chance” to become law-abiding citizens. (See Section 5A, *Working with Youth and Schools*, for more information and examples of peer court programs.)

**Community cleanup programs** respond to the community’s identification of a problem area that detracts from the quality of life. The court can respond to this community need by sentencing individuals who have committed misdemeanor crimes to “clean up” the community. Cleaning up may include painting over graffiti, clearing a park of garbage, and more. These programs generally involve partnerships with community organizations and leaders that share an interest in the cleanup, such as the chamber of commerce, business associations, senior citizen groups, or the police department. These partners can provide the materials and supervision necessary to administer the program.

### Example: The Southeast Enhancement Project, Los Angeles Municipal Court

**Project** The Southeast Enhancement Project is a program in which persons convicted of nonviolent misdemeanors are sentenced to perform cleanup tasks in their communities. This is the result of a collaborative effort involving the Los Angeles Municipal Court (LAMC), Los Angeles Police Department (LAPD), and community-based organizations. The project focuses resources on the southeast area of Los Angeles, which is an inner-city area comprising of mostly lower income people of color. LAMC judges have agreed to sentence eligible individuals to perform community service in this area as an alternative to jail. The Citizen/Police Advisory Board, which consists of local residents, prioritizes the work that must be completed. The LAPD supervises the work and reports the hours to the court.

**Purposes** The Southeast Enhancement Project serves the following purposes:

- Addresses alternative methods of sentencing defendants convicted of nonviolent misdemeanors, including, but not limited to, failure to pay child support and traffic offenses;
- Assists abatement of deteriorating quality-of-life conditions by sentencing defendants to community work service, i.e., removing graffiti from area buildings and houses, clearing alleys and lots of refuse and illegal dumping, boarding up abandoned buildings, and general maintenance of the area;
- Assists police officers in furthering their community policing efforts;
- Assists local government by providing personnel resources for community work service in areas where the city cannot afford to address the blight or have it cleaned up; and
- Helps to alleviate jail overcrowding.

Contact: Marcia Skolnik, 213-974-6358



## Examples: Graffiti Removal and Downtown Cleanup Projects, Superior Court of California, County of Butte

### Graffiti Removal

Graffiti has become a common sight in many communities, and courts and community residents are making progress in eliminating it. In Chico, the Superior Court of California, County of Butte, along with community leaders and private and government agencies, created the Graffiti Eradication Program. The strength of this program is seen in citywide collaboration.

The courts supervise the program and provide the workers, those who are convicted of nonviolent crimes. The Sheriff's Team of Active Retired Seniors (STARS) supervise the workers, monitor the Graffiti Hotline, and decide which sites to work on each day. To support the program, a community foundation was formed to accept donations and to disburse money for materials. The city provides space for storing materials and vehicles. The police department provides the telephone and voicemail for the Graffiti Hotline. The chamber of commerce provides general support and acts as liaison between the courts and business community. Insurance and escrow companies research the ownership of properties that are graffiti targets to obtain permission to remove the graffiti. Within eight months, Chico became a "graffiti-free city." The Graffiti Eradication Program is institutionalized within the community and now operates on its own.

### Downtown Cleanup

This program was developed in response to the downtown community's concerns about the condition of the streets after weekend events. As defendants are found to have committed a misdemeanor that has in some way impacted the cleanliness of the community, instead of paying a fine they are given the opportunity to perform 70 hours of community service on the downtown cleanup crew. The downtown business association provides the supervision of the cleanup crew. The program has now become so successful that the association hires a 30-hour-a-week supervisor for the cleanup. The merchants contribute to buying equipment and supplies for the cleanup. The program has served to clean the community and display the court's ability to respond to community needs and improve the community.

Contact: Hon. Darrell W. Stevens, 530-895-6502

## Therapeutic Justice

For several decades, courts have recognized a direct link between certain types of illnesses and conditions that require therapeutic treatment and recurring criminal activities. To address the high recidivism rates of these offenders, the criminal justice system has developed a response that is now being called *therapeutic justice*. This approach requires all of the players in the system — the courts, prosecutors, defense attorneys, probation departments, and social service providers — to focus on supporting individual defendants in dealing with the causes of their criminal behavior rather than solely punishing that behavior. At its core, therapeutic justice recognizes that there are





noncriminal causes of certain criminal activities and that broad societal problems have not and cannot be resolved solely by incarcerating offenders to remove them from society.

Some of the best examples of therapeutic justice come from specialized courts. (The Midtown Community Court, highlighted above, has incorporated therapeutic justice principles into its operation.) Drug courts, domestic violence courts, and mental health courts offer implicit, if not always explicit, examples of therapeutic justice applications. Typically, the cases these courts handle involve complex psychological and sociological problems that challenge the typical court process and remedies. Thus, the kinds of cases handled by specialized courts may be the types of cases most likely to benefit from the application of therapeutic justice principles.

### ***Therapeutic Justice Example: Drug Courts***

Drug treatment courts were developed in the early 1990s as an alternative to traditional criminal justice prosecution for drug-related offenses. These courts combine the close supervision of the judicial process with resources available through alcohol and drug treatment services. The two goals of these programs are to reduce recidivism of drug-using offenders and to create options within the criminal justice system for effective and appropriate responses to offenders with drug problems.

Ordinarily, drug courts are designed to work with first-time offenders and can be designed to deal with felony and/or misdemeanor cases. Often drug courts are created as pre-plea diversion programs that allow criminal proceedings to be suspended while the defendant participates in a program involving counseling, drug testing, education, or other requirements. If the defendant completes the program, the criminal charges are dismissed.

#### **Nationally accepted guidelines for drug courts include the following:**

- Drug courts integrate alcohol and other drug treatment services with justice system processing.
- Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- Eligible participants are identified early and promptly placed in the drug court program.
- Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent alcohol and other drug testing.
- A coordinated strategy governs drug court responses to participants' compliance.
- Ongoing judicial interaction with each drug court participant is essential.



- Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
- Effective drug court operations require continuing interdisciplinary education.
- Forging partnerships among drug courts, public agencies, and community-based organizations increases the availability of treatment services, enhances drug court effectiveness, and generates local support.

Since 1995, 11 states have enacted or currently have pending legislation dealing with the establishment or funding of drug courts. In California, 38 counties have drug courts in operation. (See California Standards of Judicial Administration, section 36.)

***Drug court program benefits.*** Based on studies of 20 drug court programs in effect for at least one year, drug court programs have been found to be considerably more effective than traditional criminal prosecution methods.

#### **Findings of the U.S. Department of Justice's Bureau of Justice Assistance Drug Court Clearinghouse:<sup>6</sup>**

- Recidivism has been significantly reduced among drug court program participants;
- Drug use has significantly decreased among drug court participants while they are involved in the program;
- An unanticipated beneficial effect has been that significant numbers of babies born to women enrolled in a drug court program have been drug free;
- Many programs are now expanding their targeted population based on the success of their initial implementation;
- Prosecutors and law enforcement officials have demonstrated significant support for drug court programs and in a number of jurisdictions have contributed asset-forfeiture funds to augment available treatment resources; and
- Drug court programs are extremely cost effective, with the average treatment component ranging from \$900 to \$1,600 per participant, compared with an average of \$5,000 per defendant for a minimal period of incarceration.

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<sup>6</sup> *Drug Courts: An Overview of Operational Characteristics and Implementation Issues*. U.S. Department of Justice, Bureau of Justice Assistance, Drug Court Clearinghouse, 1996.



## Example: Revia Alcohol Treatment Program, Superior Court of California, County of Butte

### Basics

The Revia Alcohol Treatment Program is a joint effort of the court, the probation department, and the medical community. Revia is a prescription drug manufactured and distributed by the Dupont Pharma company. Revia acts as a suppressor on that part of the brain that gives an alcoholic the desire to drink alcohol.

### Process

1. The court orders defendants who have serious alcohol problems to ingest Revia under the supervision of one of the local hospitals.
2. The defendant meets with any physician of his or her choice, but most frequently with the Chico Immediate Care Clinic, which is within walking distance of the court. The clinic's physicians provide on-demand physical examinations of defendants who have been ordered to ingest Revia. Assuming the defendant is physically able to ingest Revia, that person is provided a prescription immediately.
3. The defendant then meets with an officer from the Butte County Probation Department. The officer informs the defendant about the uses of Revia and the requirements of the court as to the ingestion in the presence of the pharmacist at one of the local hospitals.
4. The defendant then meets with the pharmacist at Enloe Hospital to present the prescription for Revia. The Dupont Pharma Company has provided the hospital with a substantial free supply of Revia to be supplied by the pharmacy to court ordered defendants. The pharmacist administers the dosage of Revia ordered by the physician and signs a log attesting to the ingestion of Revia by the defendant.
5. The pharmacist maintains close contact with the probation officer and with the court, reporting on the compliance or noncompliance by each defendant.

This program was honored in 1996 by the Judicial Council of California with the Ralph N. Kleps Award.

Contact: Contact Jane Pfeifer, 530-891-2796

### ***Therapeutic Justice Example: Domestic Violence Courts***

More and more, courts are recognizing the problem of family violence and taking steps to show their concern for victims' safety. A growing number of courts throughout the state have created specialized departments to handle family violence cases. Many of these courts are developing creative solutions to improve services to victims and their families.

In the domestic violence court that opened in San Mateo County in March 1997, judges are closely involved with defendants through the entire process—from



prosecution through sentencing—and then they continue with each case by working with probation officers to help ensure that convicted batterers obtain counseling.

Similar courts operate in San Diego's South Bay Court and Los Angeles County's Citrus Municipal Court. The San Diego District Attorney's Office estimates that the recidivism rate for domestic violence offenders statewide is between 15 and 20 percent. However, these two courts have enjoyed great success, with record-setting low recidivism rates (3 and 2 percent, respectively) among offenders who complete the batterers' treatment program and other conditions of each court's probation.

## **OTHER COMMUNITY CRIMINAL JUSTICE PROGRAMS**

Community criminal justice programs also include a wide range of efforts by prosecutors, law enforcement, public defenders, and community leaders to effectively address community needs and concerns related to justice. What follows is a brief description of these efforts that have been initiated throughout the United States, including community policing, community prosecution, community mobilization, and comprehensive communities. It is important that the courts both be aware of these kinds of activities in their communities and consider how the courts' community collaboration programs could appropriately relate to these initiatives. *Of course, any activities supported or engaged in by the courts must include representatives from all segments of the justice system and the community to ensure the appearance of court impartiality.*

### **Community Policing**

Community policing aims to increase interaction and cooperation between local police and the people and neighborhoods they serve. The goals of community policing are to reduce and prevent crime and to increase feelings of safety among residents. Passage of the Violent Crime Control and Law Enforcement Act of 1994 brought federal support for implementing and evaluating many community policing programs.<sup>7</sup>

“Community policing could arguably be called the new orthodoxy of law enforcement in the United States. It has become an increasingly popular alternative to what many police administrators perceive as the failure of traditional policing to deal effectively with street crime, especially crimes of violence and drug trafficking. Although the concept is defined in varying ways and its ability to meet its goals remains largely untested, community policing has gained widespread acceptance. According to one source, about 40 percent of the nation's larger police departments have adopted it.”<sup>8</sup>

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<sup>7</sup> “NIJ Research Preview – Linking Community Based Initiatives and Community Justice,” *National Institute of Justice Journal*, August 1996, p. 5.

<sup>8</sup> “NIJ Research in Brief – Implementation Challenges in Community Policing,” *National Institute of Justice Journal*, February 1996, p. 1.



## Community Prosecution

Community prosecution is an organizational response to the grassroots public safety demands of neighborhoods, as expressed in highly concrete terms by the people who live in them. They identify immediate, specific crime problems they want addressed and that the incident-based 911 system is ill suited to handle. Typical problems involve quality-of-life and disorder offenses, although in high-crime areas these issues are overtaken by more serious crimes.<sup>9</sup>

### Example: Neighborhood District Attorney, Multnomah County, Oregon

In 1990, Multnomah County (Portland), Oregon, assigned a deputy district attorney to work on a neighborhood-based prosecution project. The neighborhood committee wanted the prosecutor “to address its concerns about the lack of consequences in the downtown courts for criminal activity that adversely affected district business.” The neighborhood district attorney (NDA) “quickly saw that people’s concerns were more immediate than he had imagined. They wanted something done about prostitution, public drinking, drug use, vandalism, assaults, littering, garbage, and ‘car prowls’ (thefts from cars).” The NDA experiment with one attorney was successful and proliferated in neighborhoods throughout the county. “In general, NDAs work with citizens and police to help come up with ways to control the types of street behavior and low-level disorder that threaten neighborhood safety. An important part of the NDA’s role is to provide answers, feedback, and explanations—especially explanations of legal constraints that prohibit the police from doing what citizens think they ought to do to deal with certain conditions. The NDA devises alternatives including using the law in innovative ways (e.g., resorting to civil remedies), reconfiguring resources (e.g., getting people to work together in new ways), and conducting behind-the-scenes negotiations to bring diverse parties to the table. To do all this, NDAs must wear many hats: facilitator, legal counselor, negotiator, problem solver, and community advocate.”

Contact: Robin Gregory, Multnomah County District Attorney’s Office, 503-248-3337

## Community Defense

Community defense utilizes new ways of organizing and deploying public defenders so they can solve problems of justice in the community while providing high-quality representation at a cost government can afford.<sup>10</sup>

<sup>9</sup> “What Is Community Prosecution,” *National Institute of Justice Journal*, August 1996.

<sup>10</sup> “Community Defense and the Challenge of Community Justice,” *National Institute of Justice Journal*, August 1996. p. 41.



### Example: Neighborhood Defender Service of Harlem, New York City

In 1990 the Vera Institute of Justice, in partnership with the City and State of New York, began the Neighborhood Defender Service (NDS) of Harlem. The basic job is unchanged — the public defender represents individuals accused of crimes who cannot afford private lawyers. The change to the system is the NDS base of operation. Instead of being based in the court and receiving a case once the court assigns it, the NDS resides in the community and actively promotes its services to community members so that they may call the office at any time they need assistance. “Those who planned NDS expected that people arrested in Harlem would call NDS from precinct houses or would ask a friend or relative to call. But the great majority of calls came from parents, grandparents, spouses, and children who were trying on their own to get a lawyer for a relative who had been arrested.” NDS was also unexpectedly brought into the role of neighborhood mediator. NDS also found itself in a situation where in order to address all the needs of the person they were defending, they had to step beyond criminal matters. “Traditional defenders confine themselves to defending their clients, and they generally assume that clients face the most serious consequences in the criminal courts. By contrast, NDS represented its clients in any matter arising out of a criminal accusation.”

Contact: NDS of Harlem, 212-876-5500

### Community Mobilization

Community mobilization involves a wide range of representatives from different levels of government and from nonprofit agencies and local community groups involved in recognizing and defining a problem, organizing and planning to address it, implementing and sustaining these plans, and evaluating the quality and effectiveness of programs that result.<sup>11</sup> Community mobilization signifies a process of consciousness raising, addressing the concerns and long-term interests of those most affected by the problem, rational identification of the specific dimensions of the problem, and development of the will and commitment of participants to act. The mobilization process does not usually occur spontaneously. It is a process aimed at developing community and agency capacities that focus on understanding and dealing with the problem through use of a variety of mechanisms and activities. It must be guided by effective professional agency and citizen organizers who take on complementary leadership roles. The process depends on cooperation and on managing conflict between and among significant community groups and actors, which, in turn, leads to improved awareness and response to the problem.

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<sup>11</sup> Irving A. Spiegel “Community Mobilization Model.” University of Chicago: School of Social Service Administration, 1992.



### **Example: National Youth Gang Suppression and Intervention Program, U.S. Office of Juvenile Justice and Delinquency Prevention**

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has sponsored the development of a National Youth Gang Suppression and Intervention Program based on a community mobilization model. Academics at the School of Social Service Administration at the University of Chicago have developed an implementation plan that is designed to make use of community resources to respond to chronic youth gang problems. The plan focuses on involving: police, schools, youth service agencies, grassroot organizations, and the media.

Contact: James Birch, OJJDP, 202-307-5914

### **Comprehensive Communities**

Comprehensive communities initiatives aim to improve the delivery of multiple services simultaneously and collaboratively. They emphasize community by giving some degree of program control and responsibility to residents of target neighborhoods. These two features distinguish them from “top down” programs operated entirely by government agencies or those that focus on one social problem at a time.<sup>12</sup>

The Bureau of Justice Assistance (BJA) initiated its Comprehensive Communities Program (CCP) in 1994. Its purpose was to integrate law enforcement with social programs, and public agencies with nongovernmental organizations and individuals, to control crime and improve the quality of life. It was thought that citywide networks and partnerships would be more likely to accomplish these objectives than individuals and agencies working independently. CCP placed special attention on dealing with gangs and youth violence. Two principles define CCP: (1) Communities must take a leadership role in developing partnerships to combat crime and violence and (2) state and local jurisdictions must establish truly coordinated and multidisciplinary approaches to address problems related to crime and violence and the conditions that foster them.

Community policing and community mobilization formed the core elements of the program, but other components were deemed important as well, including youth and gang programs, community prosecution and diversion, drug courts with diversion to treatment, conflict resolution, and community-based alternatives to incarceration. There are 16 CCP sites nationwide. For more information contact: Bureau of Justice Assistance, 202-616-6500, [www.ojp.usdoj.gov/BJA](http://www.ojp.usdoj.gov/BJA).

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<sup>12</sup> “The Bureau of Justice Assistance Comprehensive Communities Program: A Preliminary Report,” <http://www.ojp.usdoj.gov/BJA>.



## COMMUNITY CIVIL JUSTICE

Although the criminal justice system may be more visible to the public in terms of media coverage, the civil justice system has a proportionately larger impact on the public. Cases that are part of the civil justice system include all types of family and juvenile law matters, including divorce, child custody, child support, juvenile dependency and delinquency, and probate/adoption/conservatorship/guardianship matters, as well as ordinary contractual disputes and personal injury actions. As courts struggle to keep up with increasing criminal and civil caseloads, civil cases are too often delayed. And as the cost of litigation continues to increase, many middle and low-income individuals are unable to afford to hire attorneys to represent them. At the same time, federal funding for legal service providers has been severely restricted. The courts have responded to these civil case trends by developing programs that ensure access to justice in civil cases and that respond to court user needs.

### Community Mediation Services

Because of the nature of the services they offer, community mediation services span both community criminal and civil justice arenas. Community mediation programs began as experiments in the late 1960s as a way to deal effectively with minor criminal cases involving neighbors, relatives, and acquaintances. Such cases often involve charges of harassment, minor assaults, fraudulent financial dealings, and the like. The community mediation field grew rapidly during the late 1970s and early 1980s, and once again has experienced a rapid growth period in the 1990s. In recent years, community mediation programs have dramatically increased the range of services that they provide by diversifying dispute resolution services into other areas, including minor civil cases, cases involving schools, divorce/custody disputes, public policy disputes, victim-offender mediation, and other specialized areas.

Programs often include a wide range of services such as:

- Conciliation, an effort by a neutral third party to assist in the resolution of a dispute short of bringing the parties together face-to-face.
- Mediation, an effort by a neutral third party to assist the disputing parties to resolve the conflict through a face-to-face meeting.
- Arbitration, a neutral third party is empowered to impose a settlement.
- Facilitation, a neutral third party conducts public meetings to deal with public policy issues.

Community mediation programs vary considerably across locales depending on local conditions, program philosophies, funding opportunities, and related factors. Two basic types of community mediation structures exist: *government-sponsored programs* and *community-based programs*.





***Government-sponsored mediation programs*** are publicly funded and, typically, operated by justice system agencies ranging from police departments to prosecutor's offices to the courts. Staff are usually justice-system employees but the program mediators are usually volunteers drawn from the community and trained in conflict resolution. The aims of justice system-based programs typically include (1) diverting cases from the court caseload, (2) providing a more appropriate process for selected types of cases, (3) providing more efficient and accessible services to citizens, (4) reducing case processing costs to the justice system, and (5) improving citizen satisfaction with the justice system.

***Community-based mediation programs*** are typically sponsored by nonprofit organizations that are formed to provide dispute resolution services. Some churches also sponsor programs. These groups seek not only to provide more appropriate and accessible dispute resolution, but also to decentralize control of decision making, develop indigenous community leadership, and reduce community tensions. These groups seek to obtain a significant portion of their cases directly through walk-in clients, in addition to referrals from the justice system agencies and other governmental organizations.

***Mediation Resources Available.*** A comprehensive review of community mediation programs is available from the National Institute of Justice. This report, *Community Mediation Programs: Developments and Challenges*, was published in 1997. It also contains information about methods for assessing the impact of community mediation programs and references to other local programs. (Contact: OJP Online Research Information Center, 202-307-6742 or National Criminal Justice Research Service (NCJRS), 800-851-3420.)

## **Alternative Dispute Resolution**

Historically, courts have used nonbinding arbitration practices in an attempt to resolve civil matters short of trial. Because of its nonbinding nature — if a party objects to the arbitrator's award, a full trial of the case can go forward even after arbitration — such practices have not appeared to provide an effective remedy to the civil case delays experienced in California over the last 25 years. In response to increasing caseloads and delays, use of mediation, private judging, and other forms of alternative dispute resolution outside of the public court system have gained prominence in the last decade.

The Commission on the Future of the California Courts found that while ADR has historically been used as an acronym for *alternative* dispute resolution, *appropriate* better conveys the concept of the method best suited to resolving the dispute. These private dispute resolution alternatives provide parties the opportunity for timely resolution of legal issues but at a cost borne by the litigants and without the precedential value and other protections of the public court system. These practices have raised questions about the creation of a two-tiered system of justice in which those with sufficient resources are able to avail themselves of private justice resources while others without sufficient means



must rely on an overburdened public court system. These issues are currently being studied by a special task force of the Judicial Council.

## Multi-Option Justice Centers

In 1993, the Commission on the Future of the California Courts envisioned a statewide system of multi-option justice centers that would provide a range of dispute resolution options, including bench and jury trials, by the year 2020. The report stated, “For courts to offer a range of dispute resolution options is not to indict traditional justice. Rather it is a recognition that not all disputes are best resolved by adjudication.” To develop these justice centers the commission urged the courts to:

- Provide a varied menu of dispute resolution processes, including, among others: mediation, arbitration, early neutral evaluation, expedited proceedings, referee-panel adjudication, administrative law forums, and bench and jury trials.
- Develop processes that are simple, understandable, and well suited to parties unrepresented by counsel. In certain consensual processes (small claims and certain types of mediation, for example) counsel should be excluded by rule.
- Create specialized dispute resolution processes and forums, such as for complex technology, mass tort litigation, and certain commercial matters.

In recent years courts have started using different types of court-annexed mediation services in response to the need to find other ways to handle civil cases in a timely way and also to encourage personal responsibility of the parties in resolving their own disputes. Set forth below is an example of how the Superior Court of California, County of Butte, is effectively using court-annexed mediation.

### Example: Small Claims Mediating Project, Superior Court of California, County of Butte

#### Overview

In 1993 the court created a small claims case mediation process to provide litigants the opportunity to resolve their own disputes without court involvement. In this program, all contested small claims cases must attempt settlement through mediation at the courthouse, with trained volunteer mediators, before cases will be heard at a trial. Because of the cooperation and generosity of volunteers from the Mediation Center of the North Valley, the court is able to have all cases mediated with a trained mediator before any disputed matter proceeds before a judge or commissioner. The mediators come to the courthouse on days when there is a small claims calendar. The bench officer explains the mediation process, extols its virtues and benefits, and orders each party to attempt to reach a resolution of the dispute through mediation to be conducted at the courthouse that day. Only after the parties meet with the mediator and fail to settle the matter will a case proceed to trial.



#### Example: Small Claims Mediating Project, Superior Court of California, County of Butte

##### Funding

The project has been made possible through the generosity of the Mediation Center of the North Valley. The Mediation Center provides trained mediators for every court session at no charge to the court and litigants. The Mediation Center benefits because of the promotion of the mediation process and of the nonprofit Mediation Center.

##### Results

The results of the project reflect a tremendous amount of savings in court time and of positive results to the litigants since they do not have to experience the unpleasantness of a trial if they settle the case in mediation. Since the project's inception, approximately 60 percent of all cases scheduled for hearing on a particular day settle after mediation. The project has met with extremely positive response from the public and media.

The project was honored by a Judicial Council Kleps Award in 1994.

Contact: Sandy Conkright, 530-895-6502

### Pro Per Help Centers

California courts, like others nationwide, have seen an increasing number of self-represented (or “pro per”) litigants, especially in family law matters. Family law judges estimate that the percentage of family law cases in which one adult is without a lawyer may be as high as 60 percent. According to these estimates, in another 30 percent of cases neither side has a lawyer, and in only 10 percent of such cases are both sides represented by counsel.

More and more clients are entering the system without a basic understanding of how it works. Most of these litigants do not know how to fill out legal forms or what their basic rights are under California law. Not surprisingly, pro per litigants are at a disadvantage in court. This situation exacerbates family tensions, exposes children to unnecessarily protracted conflict, and strains the court system's capacity to bring forward evidence about children and financial circumstances that could result in just and effective resolution of all types of family conflicts.

Pro per litigants consume a significant amount of court and judicial resources. Recent estimates reflect that courts receive as many as 2,000 to 5,000 calls each month from self-represented litigants requesting instruction and procedural information. Many pro per litigants file documents that are incomplete or inaccurate or that do not conform to local rules, requirements, or standards.

For the 1997–1998 fiscal year, the Judicial Council identified improving access for pro per litigants as a high priority. One of the initiatives promoted by the council was the Pro Per Center Pilot Program.



## Pilot Program: Pro Per Centers

Concept	The pro per pilot project sponsored by the Judicial Council involved courts in five counties that established or enhanced pro per centers. A variety of models were developed to test different approaches to improving court access. These pilots solicit the cooperation of volunteer attorneys for family law litigants who cannot afford private representation. The different model approaches are summarized below.
Alameda	<b>Oversight committee.</b> Alameda County has retained consultants to assist the court with guiding and coordinating the development of a countywide plan for a pro per help center and children's waiting room to be established at two sites, expansion of the existing domestic violence assistance program, and the establishment of a volunteer attorney services bureau. (Contact: Larry Lehner, Director, Family Court Services, 510-272-6030, Superior Court of California, County of Alameda, 1225 Fallon Street, Oakland CA 94612.)
Sacramento	<b>Research and development.</b> Sacramento County's emphasis is on collection and analysis of data gathered from litigants and staff in order to identify the demographics of the pro per population, the most common needs of the clientele, the number of potential clients, and the most important services required. Based on the results of that analysis, recommendations will be developed for expansion of existing services, recruitment of volunteer attorneys, and establishment of new programs. (Contact: Mike Curtis, Assistant Executive Officer, 916-552-8050, Superior Court of California, County of Sacramento, 720 Ninth Street, Room 611, Sacramento, CA 95814.)
San Diego	<b>Using printed materials to supplement services.</b> San Diego County's pilot program focuses on the development of forms, printed materials, and self-help guides for those who go to family court unrepresented. These materials supplement assistance programs that have been in operation for several years. (Contact: Pat Sweeten, Assistant Executive Officer, 619-531-3820, San Diego County Superior Court, 220 West Broadway, San Diego, CA 92112.)
Santa Clara	<b>Using technology to enhance communication.</b> Santa Clara County's pilot provides pro pers with answers to the most commonly asked questions and directs them to available resources using (1) a video for victims of domestic violence, (2) Web sites, and (3) information recorded in Spanish and Vietnamese on the existing English language automated telephone system. (Contact: Jean Pennypacker, Deputy Court Executive Officer, 408-299-4792, Superior Court of California, County of Santa Clara, 191 North First Street, San Jose, CA 95113.)
Ventura	<b>Attorney staffed clinic.</b> Ventura County established a clinic for pro pers in which an attorney provides basic help to pro per litigants, such as assistance with appropriate forms. The pilot program will also develop an Information Voice Response (IVR) telephone system to answer the most common questions and direct individuals to appropriate resources in English and Spanish. (Contact: Vince Ordonez, Jr., Assistant Executive Officer, 805-654-2964, Superior Court of California, County of Ventura, P.O. Box 6489, Ventura, CA 93006.)



## COMMUNITY JUSTICE RESOURCES

The newest entry into the community justice field is the soon-to-open **Red Hook Community Justice Center**. New York's second community-based court is to be located in Red Hook, a neighborhood at the southwestern tip of Brooklyn that has been hard hit by drugs, crime, and unemployment. Building on the model of the Midtown Community Court, the Justice Center will integrate the functions of a court with the types of treatment and preventive services typically found in a community center. In doing so, the Justice Center will test the extent to which a court can serve as a catalyst for change in the community. The Justice Center will handle a mix of criminal and civil matters. In addition to paying back the neighborhood through community restitution sentences and the provision of a variety of social services under its roof, the Justice Center will house several unconventional programs—such as community mediation and job training—that seek to address neighborhood problems. Redhook is scheduled to open in the Summer of 1999. Updates on the progress of pre-opening activities are provided on the Center for Court Innovation's Web site at [www.communitycourts.org](http://www.communitycourts.org). Once the center opens, extensive reports of their experience, challenges, and successes are expected.

Community justice initiatives are currently well regarded, well documented, and well funded on a national level. Contact information for institutions involved in the development and study of community justice initiatives is included in the Resource Contacts section of the *Appendix*. A bibliography of community justice resources, developed by the Center for Court Innovation and the Bureau of Justice Assistance, can be found in the Bibliography section of the *Appendix*.

